

## REMARKS

Applicants' respectfully request reexamination and reconsideration of the application in view of the following remarks.

Applicants appreciate the Examiner's entry of the preliminary amendment filed on April 9, 2004 prior to examination of the application.

Applicants acknowledge the Examiner's comments concerning prior art cited in the prior copending parent application not being entered because the Information Disclosure Statement did not list the prior art references in a separate list. Applicants have reviewed the prior art cited by the Examiner and believe that the Examiner has cited the most relevant prior art references and Applicants do not believe any of the prior art listed in the parent applications is more pertinent than that cited by the Examiner in the instant application.

The Examiner objected to claims 1, 2, and 4 because of informalities.

Applicant respectfully requests that the Examiner withdraw the objection in view of Applicants' amendment of the claims in accordance with the Examiner's suggestion.

The Examiner has rejected claim 4 and 29 under 35 USC §112 as being indefinite.

Applicant respectfully requests that the Examiner withdraw the rejection in view of Applicants' amendment of the claim.

The Examiner has rejected claims 1-6, 9-11, 16, 20-24, 26-29, 32 and 33 under 35 USC §102(b) as being anticipated by Morse's U.S. Patent 4,077,737 for an "Integral Hole Saw and Arbor Construction".

Applicants respectfully requests that the Examiner withdraw the rejection in view of the amendment to the claims and the following remarks.

Claim 1 as amended includes conical teeth and an opening in the side wall extending downwardly from the top edge of the tubular body. Neither of these features are taught nor suggested by the cited Morse reference. Claims 2-6, 9-11, and 16, depend from claim 2. Claim 2 as amended includes conical teeth not shown nor suggested by the cited reference and Applicants' rock auger features a solid central portion as shown in at least Figures 13, 14, 20, and 26. Claims 20-24, 26-29, 32 and 33 have been amended to claim conical teeth and an end plate across the tubular body prohibiting material flow there through in contrast to the cited reference.

The Examiner has rejected claims 2, 18, 28, and 31 under 35 USC §103) as being unpatentable over Morse et al. In view of Hill (U.S. Patent 2,021,184) for a Drilling Structure and Bit..

Applicants respectfully requests that the Examiner withdraw the rejection in view of the amendment to the claims and the following remarks.

Claim 2 as amended includes conical teeth not shown nor suggested by either of the cited references. The Examiner has alleged that all of the features of Applicant's claimed invention is taught by the cited references; however, the Hill reference refers at column 3, lines 20-30 to the drilling structure having a hollow center being necessary through the drill stem and bit for taking core samples whereas Applicants' rock auger as now claimed features a solid central portion as shown in at least Figures 13, 14, 20, and 26. Claim 18 is dependent upon claim 2 and is also believed to be allowable. Claim 28 has also been amended to include conical teeth and an end plate which prohibits the flow of material there through which is not taught by the cited references. Claim 31 is dependent upon claims 28 and also deemed allowable.

The Examiner has rejected claims 1-17, 19-29, and 32 and 33 based on a judicially created

doc trine of double patenting in view of U.S. Patent No. 6,619,413.

Applicant respectfully requests that the Examiner withdraw the rejection in view of the enclosed terminal disclaimer.

The Examiner has rejected claims 2, 18, 28 and 31 based on a judicially created doc trine of double patenting in view of U.S. Patent No. 6,129,163 in view of Morse.

Applicant respectfully requests that the Examiner withdraw the rejection in view of the enclosed terminal disclaimer.

The Examiner has indicated that claims 7, 8, 12-15, 17, 19, and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten independent form including all of the limitations of the base claim and any intervening claims upon timely filing a terminal disclaimer.

Applicant respectfully requests that the Examiner withdraw the rejection in view of the amendment to the claims in accordance with the Examiner's requirements.


Applicant appreciates claim 25 is deemed allowable over the prior art upon filing of a terminal disclaimer..

For all of the foregoing reasons, Applicant submits that the claims are patentable over the cited references and that the application is in condition for allowance. Accordingly, Applicant respectfully requests prompt reconsideration and receipt of the formal Notice of Allowance.

The fees for the extension of time, additional independent claims and terminal disclaimer are enclosed herewith. Please charge any underpayment or credit any overpayment to counsel's Deposit Account No. 50-0642.

If the Examiner believes there are other unresolved issues in this case, Applicant's attorney would appreciate a telephone call at (502) 452-1233 to discuss any such remaining issues.

Respectfully submitted,

  
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